

**Arkansas Forestry Commission  
Controlled Substance and Alcohol Testing  
Policy and Procedure Statement  
§170**

**Definitions**

1. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
2. **Alcohol concentration:** (or content): The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
3. **Alcohol use:** The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
4. **Controlled substances** are defined as marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.
5. **Driver:** Any person who operates a commercial motor vehicle. For the purposes of pre-employment/pre-duty testing, the term driver includes a person applying to the AFC for a job that requires a commercial driver's license.
6. **Employee:** Any individual employed by the AFC.
7. **Employer:** Any AFC individual who assigns employees to operate a commercial motor vehicle or supervises an AFC employee.
8. **On-Duty:** All time employee/driver required to be in readiness to work until the time he is relieved from work and all work responsibility. On-duty time includes:
  - a. all time during scheduled work hours, unless relieved from duty;
  - b. all time inspecting, servicing, or conditioning equipment;
  - c. all time spent at driving controls of a vehicle;
  - d. all time, other than driving time, in or upon any commercial motor vehicle;
  - e. all time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, or remaining in readiness to operate the vehicle;
  - f. all time spent performing driver requirements relating to accidents;
  - g. all time repairing, obtaining assistance, or in attendance of a disabled vehicle; and,
  - h. all time spent complying with testing requirements of this policy.
9. **Refuse to submit to:** A driver or employee (1) fails to provide adequate breath for alcohol testing without a valid medical explanation (2) fails to

provide adequate urine for controlled substances testing without a valid medical explanation, or (3) engages in conduct that clearly obstructs the testing process.

10. **Safety-sensitive function:** Any function defined in on-duty time.
11. **Reasonable Suspicion:** When employer has reasonable suspicion that driver/employee has violated prohibitions of alcohol or controlled substances based on specific, immediate, articulate observations concerning appearance, behavior, speech, or body odors of driver/employee. The observations may include indications of chronic and withdrawal effects of controlled substances or alcohol use.

## **Policy**

1. This policy is to help prevent accidents and injuries resulting from misuse of alcohol or controlled substances by AFC employees.
2. This policy applies to all employees who operate a commercial motor vehicle for the AFC and is subject to the commercial driver's license (CDL) requirement. The policy may apply to all AFC employees under the reasonable suspicion definition.
3. The AFC ensures that all alcohol or controlled substances testing for commercial drivers complies with the procedures set forth in Title 49 of the Code of Federal Regulations, Part 40.

## **Required Tests**

1. Pre-employment testing for controlled substances is required for all employees required to have a CDL. Pre-employment testing for other employees is at the discretion of the supervisor. A positive test will result in immediate termination of employment or withdrawal of offer of employment.
2. Post-accident testing is required as soon as practicable following any accident. The AFC shall test for alcohol and controlled substances.
3. Post-accident tests conducted by federal, state, or local officials having independent authority for the tests will meet requirements of this policy.
4. Random testing is a requirement for employees with a CDL. Tests for alcohol and/or controlled substances are determined by a random selection by a company certified under Department of Transportation regulations. Employees will not have prior knowledge of test dates. Supervisors are responsible for maintaining confidentiality and taking employees to collection sites.
5. A positive test of alcohol or controlled substances requires the supervisor to consult with the AFC Personnel Manager and initiate disciplinary action.

6. Reasonable suspicion testing requires a driver/employee to submit to alcohol or controlled substances testing when the employer has reasonable suspicion that a driver/employee has violated the prohibitions listed.
7. A driver/employee that refuses to submit to the required testing will terminate employment.
8. Return to duty testing will be done before driver/employee may return to work, provided the driver/employee meets the requirement of AFC Disciplinary Policy and conditions outlined in "Positive Results" on page 3.

**Prohibitions:** Any driver/employee who engages in the following prohibited conduct shall be subject to the AFC Disciplinary Policy.

1. No driver/employee shall report for duty or remain on-duty with an alcohol concentration of 0.04 or greater or when they have used a controlled substance (except when specifically prescribed by a physician that certifies the substance will not adversely affect ability to perform safety-sensitive functions).
2. No employer having an actual knowledge that a driver/employee possesses alcohol or controlled substances shall permit driver/employee to perform safety-sensitive functions.
3. No driver/employee shall perform safety-sensitive functions within four hours after using alcohol, nor shall employer permit driver/employee to work within this time constraint.
4. No driver/employee shall report for duty, remain on duty, or perform a safety-sensitive function if the driver/employee tests positive for controlled substances, nor shall the employer permit any driver/employee that tests positive for controlled substances to remain on duty. The AFC may require a driver/employee to inform the employer of any therapeutic drug use.

### **Positive Results**

1. Any driver/employee that tests positive for alcohol or controlled substances will immediately be removed from duty.
2. The employer will provide the driver/employee with a contact list of substance abuse professionals. To retain employment the driver/employee must voluntarily enter a substance abuse counseling/rehabilitation treatment program.
3. Driver must set up counseling/rehabilitation treatment program with DOT certified substance abuse professional within five working days of positive result.
4. Employee not governed under DOT regulations may contact licensed

substance abuse professional/facility that is not DOT certified.

5. Driver/employee or designated representative must contact AFC Personnel Manager with name and location of facility, contact person at facility, and date employee will enter treatment.
6. Employee must sign release of information with treatment program facility to release progress reports to AFC Personnel Manager.
7. Driver/employee must take accrued leave or leave without pay when entering a substance abuse facility. All treatment costs are the responsibility of the driver/employee.
8. Employees that do not voluntarily enter a substance abuse facility, if recommended by the substance abuse professional, for treatment will face immediate termination of employment on the date of the positive test.
9. A driver/employee must have a negative test result after treatment to return to duty after completion of treatment.
10. The AFC will require unannounced follow-up tests at its discretion for a minimum of five years from the positive test date.
11. A driver/employee that tests positive a second time in their career with the AFC will be immediately terminated from employment with no opportunity for re-employment with the AFC.

## **Record Retention**

1. The AFC shall maintain records of all testing lists, results, and any substance abuse evaluations at the AFC Little Rock headquarters.
2. Records will be available for inspection within two business days after a request made for audit by an authorized representative of the Federal Department of Transportation.
3. Except as required by law or expressly authorized by Title 49 Code of Federal Regulations, Part 382, the AFC shall not release driver information on CDL holders.
4. A driver/employee, upon written request, may obtain copies of any records pertaining to their use of alcohol or controlled substances.
5. Records shall be made available to a subsequent employer upon receipt of a written request from the driver.
6. The AFC may disclose information pertaining to a driver/employee in a lawsuit, grievance, or other proceeding arising from the results of an alcohol and/or controlled substance test.
7. Each driver/employee shall receive a copy of this AFC Policy § 170.
8. Each driver shall receive access to a copy of the Federal Motor Carrier

Safety Regulations, Title 49 CFR Parts 40, 382, 391, 392, and 395.

9. Each driver shall sign a certificate of receipt (AFC Form A170.100).

### **Repeal**

This AFC Controlled Substances and Alcohol Testing Policy §170 supersedes all earlier AFC Policy § 170 and interpretive memoranda, which are hereby repealed.